

AMENDED IN ASSEMBLY MARCH 26, 2012

CALIFORNIA LEGISLATURE—2011–12 REGULAR SESSION

**ASSEMBLY BILL**

**No. 1974**

**Introduced by Assembly Member Dickinson  
(Coauthor: Assembly Member Allen)**

February 23, 2012

---

An act to add Section 17052.1 to the Revenue and Taxation Code, relating to taxation, ~~and making an appropriation therefor to take effect immediately, tax levy.~~

LEGISLATIVE COUNSEL'S DIGEST

AB 1974, as amended, Dickinson. Income taxes: credit: earned income.

The Personal Income Tax Law authorizes various credits against the taxes imposed by that law, including certain credits that are allowed in modified conformity to credits allowed by federal income tax laws.

This bill would, for taxable years beginning on or after January 1, ~~2013~~ 2012, allow a credit computed by multiplying the federal *earned income* credit amount, as defined, by 15% ~~and subtracting therefrom the alternative minimum tax, as specified.~~ This bill would provide that, *in those years in which an appropriation is made by the Legislature,* the credit would be refundable.

~~The Tax Relief and Refund Account in the General Fund is continuously appropriated to make all payments required to be made to taxpayers or other persons, as specified.~~

~~By authorizing a new, refundable income tax credit to be paid from that account, this bill would make an appropriation.~~

*This bill would take effect immediately as a tax levy.*

Vote:  $\frac{2}{3}$ -majority. Appropriation: ~~yes~~-no. Fiscal committee:  
yes. State-mandated local program: no.

*The people of the State of California do enact as follows:*

1 SECTION 1. Section 17052.1 is added to the Revenue and  
2 Taxation Code, to read:  
3 17052.1. (a) For each taxable year beginning on or after  
4 January 1, ~~2013~~ 2012, there shall be allowed as a credit against  
5 the “net tax,” as defined by Section 17039, an amount determined  
6 under subdivision (b).  
7 (b) Except as otherwise provided in this section, the amount of  
8 the credit allowed under subdivision (a) shall be computed by  
9 multiplying the “federal *earned income* credit amount,” as defined  
10 in subdivision (c), by 15 percent ~~and subtracting therefrom the~~  
11 ~~amount of tax imposed by Section 17062, relating to the alternative~~  
12 ~~minimum tax, if any, for the same taxable year.~~  
13 (c) For purposes of this section, “federal *earned income* credit  
14 amount” means the amount determined under Section 32 of the  
15 Internal Revenue Code as in effect on January 1, 2012.  
16 (d) A credit shall not be allowed under this section to any of the  
17 following:  
18 (1) Any person who is a nonresident for any portion of the  
19 taxable year.  
20 (2) Any person who is married, within the meaning of Section  
21 17021.5, and files a separate return for the taxable year.  
22 ~~(e) If the amount allowable as a credit under this section exceeds~~  
23 ~~the tax liability computed under this part, the excess shall be~~  
24 ~~credited against other amounts due, if any, and the balance, if any,~~  
25 ~~shall be paid from the Tax Relief and Refund Account and refunded~~  
26 ~~to the taxpayer.~~  
27 (e) (1) *Except as provided in paragraph (2), in the case where*  
28 *the credit allowed under this section exceeds the “net tax,” the*  
29 *excess credit may be carried over to reduce the “net tax” in the*  
30 *following taxable year, and succeeding taxable years, if necessary,*  
31 *until the credit is exhausted.*  
32 (2) (A) *Notwithstanding paragraph (1), for taxable years*  
33 *beginning on or after January 1, 2012, if the amount allowable as*  
34 *a credit under this section exceeds the tax liability computed under*  
35 *this part, the excess shall be credited against other amounts due,*

1 *if any, and the balance, if any, shall, upon appropriation by the*  
2 *Legislature, be paid from the Tax Relief and Refund Account and*  
3 *refunded to the taxpayer.*

4 *(B) If the amounts refunded to taxpayers pursuant to this*  
5 *paragraph exceed the amount available in the Tax Relief and*  
6 *Refund Account, the Franchise Tax Board shall establish a wait*  
7 *list for refunds, with an order of priority based on the date the*  
8 *taxpayer's return was received by the Franchise Tax Board. The*  
9 *Franchise Tax Board shall notify a taxpayer if he or she has been*  
10 *placed on the wait list.*

11 *(f) Any credit refunded to a taxpayer pursuant to this section*  
12 *shall not be included in income subject to tax under this part.*

13 *(g) Notwithstanding any other state law, and to the extent*  
14 *permitted by federal law, amounts refunded pursuant to subdivision*  
15 *(e) shall be treated the same as the federal earned income credit*  
16 *defined in subdivision (c) for the purpose of determining eligibility*  
17 *to receive benefits under Division 9 (commencing with Section*  
18 *10000) of the Welfare and Institutions Code or amounts of those*  
19 *benefits.*

20 *SEC. 2. This act provides for a tax levy within the meaning of*  
21 *Article IV of the Constitution and shall go into immediate effect.*